UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,737	07/28/2003	Masaki Okada	03500.012432.1	3838

5514   7590   07/24/2008
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EXAMINER
HO, TUAN V

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
07/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/627,737	OKADA, MASAKI
	Examiner	Art Unit	
	Tuan V. Ho	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _18-30_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _18-30_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _28 July 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☒ Certified copies of the priority documents have been received in Application No. _08/991,876_.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _7/28/03 and 6/21/04_.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1.   Applicant's election of Figure 2, claims 18-30 in the reply

filed on 2/8/08 is acknowledged.   Because applicant did not

distinctly and specifically point out the supposed errors in the

restriction requirement, the election has been treated as an

election without traverse (MPEP § 818.03(a)).

2.   The nonstatutory double patenting rejection is based on a
judicially created doctrine grounded in public policy (a policy
reflected in the statute) so as to prevent the unjustified or
improper timewise extension of the "right to exclude" granted by
a patent and to prevent possible harassment by multiple
assignees.   A nonstatutory obviousness-type double patenting
rejection is appropriate where the conflicting claims are not
identical, but at least one examined application claim is not
patentably distinct from the reference claim(s) because the
examined application claim is either anticipated by, or would
have been obvious over, the reference claim(s). See, e.g., *In re
Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re
Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re
Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van
Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422
F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418
F.2d 528, 163 USPQ 644 (CCPA 1969).
      A timely filed terminal disclaimer in compliance with 37
CFR 1.321(c) or 1.321(d) may be used to overcome an actual or
provisional rejection based on a nonstatutory double patenting
ground provided the conflicting application or patent either is
shown to be commonly owned with this application, or claims an
invention made as a result of activities undertaken within the
scope of a joint research agreement.
      Effective January 1, 1994, a registered attorney or agent
of record may sign a terminal disclaimer. A terminal disclaimer
signed by the assignee must fully comply with 37 CFR 3.73(b).

3.   Claims 27-29, 36-38, 40-42, 43-45, 46-48 rejected on the

ground of nonstatutory obviousness-type double patenting as

being unpatentable over claims 27-29 and 36-48 of U.S. Patent

No. 6,630,954. Although the conflicting claims are not

identical, they are not patentably distinct from each other

because:

Claims 18-20 are obvious variants and encompassed by claims

36-38 and 43-45 of Patent'954.

Claims 24-26 are obvious variants and encompassed by claims

36-38 and 43-45 of Patent'954.

Claim 27 is an obvious variant and encompassed by claim 39

of Patent'954.

Claims 21-23 are obvious variants and encompassed by claims

27-29, 40-42 and 46-48 of Patent'954.

Claims 28-30 are obvious variants and encompassed by claims

27-29, 40-42 and 46-48 of Patent'954.

4.   The following is a quotation of the appropriate paragraphs

of 35 U.S.C. 102 that form the basis for the rejections under

this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or
> a foreign country or in public use or on sale in this country, more than one
> year prior to the date of application for patent in the United States.

5.   Claims 18-30 are rejected under 35 U.S.C. 102(b) as being

anticipated by Moronaga et al cited by Applicant (US 5,473,370).

With regard to claim 18, Moronaga et al discloses in Figs.
1-3c, an electronic video camera that comprises the electronic
apparatus (video camera 10, col. 9, line 20) for use with an
image pickup device (CCD 38, col. 9, line 64), comprising a
memory which stores an image file corresponding to an image
picked up by the image pickup device (memory cartridge 29 or
memory 28, col. 9,line 41), and data which indicates that the
image file has previously undergone transfer thereof from the
memory to a different storing area (indications 12A and 12B show
CA 12 and IN 12, col. 10, lines 34-65 and col. 11, lines 1-35)
or that the image file has not yet undergone the transfer
thereof (indication 12A and 12B); and a control device that
controls transfer of the image file from the memory to a
different storing area and rewrites the data in accordance with
the transfer of the image file (CPU 44, col. 11, lines 18-23).

With regard to claim 19, Moronaga et al discloses in Figs.
1-3c, an electronic video camera that comprises the notification
means for notifying a user whether or not the image file stored
in the memory previously has been transferred from the memory to
the different storing area an accordance with the data attached
to the image file (notifications CA 12 or IN 12, col. 10, lines
45-55).

With regard to claim 20, Moronaga et al discloses in Figs. 1-3c, an electronic video camera that comprises the different storing area is in an external storage apparatus (cartridge 29 includes RAM 31).

With regard to claims 21-23, method claims 21-23 correspond to apparatus claims 18-20 and are analyzed the same as previously discussed with respect to apparatus claims 1-20.

With regard to claim 24, Moronaga et al discloses in Figs. 1-3c, an electronic video camera including image files stored in memory cartridge 29 that comprises the memory device that controls a memory which stores an image file corresponding to an image picked up by an image pickup device (memories 28 and 29), and data which indicates that the image file has previously undergone transfer thereof from the memory to a different storing area (CA 12 and IN 12) or that the image file has not yet undergone the transfer thereof (CA 12 and IN 12); and a control device that controls transfer of the image file from the memory to a different storing area and rewrites the data in accordance with the transfer of the image file (CPU 44).

Claims 25 and 26 recite what was discussed with respect to claims 19 and 20.

With regard to claim 18, Moronaga et al discloses in Figs. 1-3c, an electronic video camera that comprises the image pickup device (CCD image sensor 38).

With regard to claims 28-30, method claims 28-30 correspond to apparatus claims 24-26 and are analyzed the same as previously discussed with respect to apparatus claims 24-26.

6.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Watanabe et al (US 6,686,958) discloses an electronic camera that includes a computer; where the image files can be transferred between the camera and computer.

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan Ho whose telephone number is (571) 272-7365. The examiner can normally be reached on Mon-Fri 7:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272-7593. The fax phone number for

the organization where this application or proceeding is

assigned is 571-273-8300.

Information regarding the status of an application may be

obtained from the Patent Application Information Retrieval

(PAIR) system. Status information for published applications may

be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system,

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access

to the Private PAIR system, contact the Electronic Business

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If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system,

call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan V Ho/

Primary Examiner, Art Unit 2622